

Board of Chiropractic Examiners

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES****November 19, 2009****Holiday Inn San Diego Bayside
4875 N. Harbor Drive
San Diego, CA 92106****Board Members Present**

Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

Staff Present

Robert Puleo, Interim Executive Officer
LaVonne Powell, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Lavella Matthews, Associate Governmental Program Analyst
Tammi Pitto, Staff Services Analyst
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 10:00 a.m.

Roll Call

Dr. Tyler called the roll. All members were present except Dr. Steinhardt, who came at 10:14 a.m.

Chair's Report

Dr. Lerner gave the Chair's Report.

Approval of Minutes

October 22, 2009 Board Meeting

Discussion

Dr. Lerner, Mr. Puleo, and Ms. Powell discussed that there were items from the last meeting regarding public comments on the regulations that were discussed, but not responded to. The comments were minor technical changes; however will still need to be addressed. The minutes were tabled to be discussed later in the meeting with the regulations.

Public Comment

None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell stated there is nothing she needed to discuss.

Dr. Lubkin asked for clarification if there has been a change on the majority conversation rule of two members versus three members.

Ms. Powell provided clarification and stated the recommendation is to keep it to two board members.

Interim Executive Officer's Report

Mr. Puleo gave the Interim Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Dr. Lerner, Mr. Puleo, and Ms. Shaw discussed satellite certificates in relation to QME. They have been checked against the QME database and are showing to be consistent. Statistics are showing that no problem exists with the number of satellites being issued.

Dr. Lubkin, Mr. Puleo, and Dr. Lerner discussed possible trends in regards to the categories for complaints and the possibility of breaking down violation code CCR 317 within its subsections.

Ratification of Approved License Applications

MOTION: DR. LUBKIN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion

None

Ratification of Approved Continuing Education Providers

MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDER

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

Discussion

Dr. Lubkin asked for a brief description on the course being offered.

Dr. Lerner clarified this is solely the provider being approved.

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. LUBKIN MOVED TO RATIFY THE RECOMMENDATION TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

The Board ratified the attached list of applications in which the applicants request to waive the two year requirement to restore a cancelled license incorporated herein (Attachment C).

Discussion

Dr. Lubkin asked for clarification on why the license was cancelled.

Ms. Powell clarified that these will not be due to any type of discipline, only due to lack of renewal.

Government Relations Committee Meeting Update

Dr. Lubkin provided an update from the meeting held this morning at 9:00 a.m.

Proposed Regulations

A. Manipulation under Anesthesia

Dr. Lerner provided an update stating the modified text went out for another 15 day comment period and there were three responses.

Ms. Powell stated that staff did not provide a response to the comment stating MUA was not taught in chiropractic schools in 1922. Staff is waiting for direction from the Board in regard to this comment. Ms. Powell also clarified that the issues raised during this comment period were already responded to. The final statement of reasons will reflect that this is not a new comment and use previous comments to respond to this.

MOTION: DR. LERNER MOVED TO ACCEPT STAFF'S RECOMMENDATIONS* TO THE THREE COMMENTS AND INCLUDE ANY RESPONSES PREVIOUSLY PROVIDED.

****Please see Attachment D, which contains staff's recommended responses to the comments received during the 15-day comment period and is incorporated herein by reference.***

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Discussion

None

Public Comment

None

MOTION: DR. LERNER MOVED TO APPROVE THE FINAL LANGUAGE WITHOUT CHANGES AND SEND IT OFF TO OAL

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Discussion

None

Public Comment

None

B. Continuing Education

Dr. Lerner provided an update stating over 6 hours was spent reviewing the comments and several changes were made to the language.

Dr. Lerner, Ms. Powell and Mr. Puleo discussed some comments from the minutes that needed to be addressed. Those comments pertained to section 359 and were withdrawn by CCA, however the sentence in question will read "and".

MOTION: DR. LERNER MOVED TO SEND THE AMENDED LANGUAGE, WITH THE CHANGE BACK TO "AND" IN SECTION 359, OFF FOR ANOTHER 15 DAY COMMENT PERIOD**

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

*****Please see Attachment E, which contains the amended language and is incorporated herein by reference.***

Discussion

Dr. Tyler, Dr. Lerner, and Ms. Powell discussed approval of the continuing education providers and the continuing education committee forming policies that are not included in the regulation.

Public Comment

Debra Snow provided public comment in support of the amended language.

C. Recognition of Chiropractic Specialties

Dr. Lerner provided an update to the second 15 day comment period.

Dr. Steinhardt asked for clarification on why the IACN was removed.

Ms. Powell responded and provided clarification.

Dr. Lerner went over staff's responses to the comments.

MOTION: DR. LERNER MOVED TO APPROVE STAFF'S RECOMMENDATIONS* AS THEY ARE AND INCLUDE RECOGNITION FOR THE SOLE PURPOSE OF THE WORKERS COMPENSATION LAW**

******Please see Attachment F, which contains staff's recommended responses to the comments received during the 15-day comment period and is incorporated herein by reference.***

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Discussion

None

Public Comment

Dr. Becker provided public comment on the suggested response.

MOTION: DR. LERNER MOVED TO ADOPT THIS LANGUAGE FOR FINAL RULE MAKING AND SEND IT OFF TO OAL

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Legal Representation for Board

Dr. Lerner, Mr. Puleo, Ms. Powell, Dr. Lubkin, Dr. Columbu, and Ms. Shaw discussed the research that has already been completed regarding legal representation other than the Office of the Attorney General. We will check with the working group at DCA on this subject and see if their model will help our research.

Search for Executive Officer

Dr. Lerner provided an update and discussed the process of recruiting an Executive Officer.

Dr. Lerner, Mr. Puleo, Ms. Powell, Dr. Lubkin, and Dr. Columbu had a discussion on options outside of DCA to get a wider pool of candidates.

MOTION: DR. LERNER MOVED TO DELEGATE TO THE EXECUTIVE SEARCH COMMITTEE THE TASK TO COME UP WITH THE SCOPE OF WORK, THE ACTUAL CONTRACT THAT IS BEING BID ON, AND A COMPARISON TO DCA

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Memorandum of Understanding for Personnel Services

Dr. Lerner state this subject is being discussed with the previous item, Search for Executive Officer; they are intertwined and hard to separate.

Legality of Prepaid Health Programs

Mr. Mark Sumner from the Office of Legal Services within Department of Managed Healthcare provided information and clarification on the legalities of prepaid health programs.

Mr. Sumner responded to questions from Dr. Lerner and Dr. Lubkin.

Mr. Sumner stated that Mr. Stiger was interested in putting some educational information on the board's website from the Department of Managed Healthcare, and would be willing to work with Mr. Puleo to make that happen.

Mr. Sumner and Ms. Powell responded to public questions from Christine Shultz, CCA.

Exemption/Reciprocity for Chiropractors Traveling with Sports Teams

Dr. Lerner stated the Medical Board uses AB138 for this purpose; however, we would have to amend our Initiative Act, this couldn't be done through regulation, so we are stuck with the way it is. If someone comes here from out of state to treat a sports team, they will need to have a California license to do so. This varies from state to state.

Acceptable Advertising

Dr. Lubkin stated this item has been deferred to the next Enforcement Committee meeting.

Proposed Board Meeting Schedule for 2010

Dr. Lerner announced the proposed board meeting schedule for 2010. The May meeting date was changed from the 20th to the 13th, and the July meeting location was changed from San Diego, to Orange County.

MOTION: DR. LERNER MOVED TO ACCEPT THE PROPOSED 2010 BOARD MEETING SCHEDULE

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Public Comment

Dr. Charles Davis provided public comment regarding acceptable advertising.

Future Agenda Items

None

Hearings re: Petition for Reinstatement of Revoked License

Administrative Law Judge Donald P. Cole presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Deborah Noble
- David Young
- Eric Tolman

Closed Session

Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

Adjournment

Dr. Lerner adjourned the public meeting at 3:48 p.m.

Attachment A

**Approval By Ratification of Formerly Approved License Applications
September 1, 2009 – October 31, 2009**

Name (First, Middle, Last)			Date Issued	DC#
Jon	Lawrence	Bjarnason	9/10/2009	31389
Chang	Hung	Chi	9/10/2009	31390
Yong	Jae	Chung	9/10/2009	31391
Jaime		Cortez	9/10/2009	31392
Casey	Dongjoo	Kim	9/10/2009	31393
Jennifer	Eloise	Burns	9/10/2009	31394
Wendy	Renee	Doyle	9/15/2009	31395
Megan	Alice	Hondru	9/15/2009	31396
Joseph	Francis	Leonardi	9/15/2009	31397
Joanna	Chunyen	Lin	9/15/2009	31398
Sara	Terese	Lord	9/15/2009	31399
Thanh-Huyen	Thi	Nguyen	9/17/2009	31400
Anastasia		Orengo	9/17/2009	31401
Laura	Marie	Landgraf	9/17/2009	31402
Karla	Albina	Pineda	9/17/2009	31403
Khadijah	A	Poole-Khatib	10/8/2009	31404
Ayako		Tanaka	9/17/2009	31405
Chuck	Andrew	Turkowski	9/17/2009	31406
Robert	Shih-Chan	Tseng	9/17/2009	31407
Kristen	Lynne	Wills	9/17/2009	31408
SungWoong		Yoon	9/17/2009	31409
Michael	David	Silver	10/8/2009	31410
Michael	Hugh	Wells	10/8/2009	31411
Khalid	Hanif	Chaney	10/5/2009	31412
Charissa	Ytis	Galvan	10/5/2009	31413
Mireya		Hernandez	10/5/2009	31414
Bret	David	Jenkins	10/5/2009	31415
Colman		Leung	10/5/2009	31416
Cesar	Augusto	Mavila	10/5/2009	31417
Hiromichi		Nakano	10/12/2009	31418
Jagjit	Singh	Sihota	10/12/2009	31419
Brett	Earl	Underwood	10/12/2009	31420
Bill	Chuwen	Wang	10/12/2009	31421
Andrew	Nathan	Hassen	10/15/2009	31422

Brandey	Patricia	Dollens	10/15/2009	31423
Loren	Cecil	Marshall	10/15/2009	31424
Kenneth	Stuart	Johns	10/15/2009	31425
Bethony	Grace	Genovea	10/15/2009	31426
David	Shawn	Kleinberg	10/15/2009	31427
Anthony	Ariel	Silva	10/19/2009	31428
Ann	Marie	Eissler	10/22/2009	31429
Clark	Michael	Johnson	10/22/2009	31430
John	Anthony	Catapano	10/22/2009	31431
Ryan	Montana	Maynard	10/22/2009	31432
Diane	Kristy	Dossinger Hall	10/22/2009	31433
James	Eric	Thompson	10/22/2009	31434
Young	Ki	Son	10/27/2009	31435
Thong	Huu	Nguyen	10/27/2009	31436
Daniel	Phillip	Sterling	10/27/2009	31437
Christopher	Robert	Vargas	10/27/2009	31438
Ronald		Phillip	10/29/2009	31439
Eric	Joseph	Liss	10/30/2009	31440
Nima	Madadi	Arabani	10/30/2009	31441
Yu-Fu		Kuo	10/30/2009	31442
Vincent	Giacomo	Commendatore	10/30/2009	31443
Bryce	Edward	Christianson	10/30/2009	31444
Sarah	Lynn	Clark	10/30/2009	31445
Matthew	John	Breske	10/30/2009	31446
Andrew	Turley	Lowe	10/30/2009	31447
David	Lee	De Mey	10/30/2009	31448
Teresa	Jeanne	Lonsbury	10/30/2009	31449
Sandeep	Kaur	Sidhu	10/30/2009	31450
Jared	Daniel	Stubblefield	10/30/2009	31451
Samuel	Patrick	Woolfenden	10/30/2009	31452

Attachment B

Ratification of Formerly Approved Continuing Education Providers

Continuing Education Providers

Date Approved

▪ **M. Kirk Meier**

10/30/2009

Attachment C

**Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License**

Name (Last, First MI)	License No.	Cancellation Date
Alcantara, Junjoe	29114	08/31/2009
Hedayat, Nick	26200	02/28/2009
Mauldin, Randy	28127	12/31/2008
Rosentiel, Jacques	12810	04/30/2009

Attachment D

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners

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Comment 1: Linda Hertzberg, M.D., California Society of Anesthesiologists opposes the Modified Proposed Regulatory Language for MUA stating the DCA opinion lacks validity and CSA continues to have serious patient safety concerns regarding MUA. Comments and recommendations are as follows:

- 1.) There is no evidence that MUA was practiced, taught, or even thought about in chiropractic schools in 1922.
- 2.) The integral, essential function of anesthesia, drugs in MUA is contrary to the clear statement in Section 7 of the Chiropractic Initiative Act, that does not authorize "the use of any drug or medicine now or hereafter included in the material medica."
- 3.) For the DCA opinion to ignore the function of anesthesia, and only examine the role of manipulation in MUA was either disingenuous or intentional in order to reach a desired conclusion.
- 4.) MUA is outside the chiropractic scope of practice.

Staff Suggested Response:

Staff disagrees with the comments. This language does not permit doctors of chiropractic to administer anesthesia. Anesthesia may only be administered, following an appropriate examination, by a California licensed physician and surgeon, or other care provider authorized under California law to administer anesthesia, who is trained and competent to administer anesthesia safely. Staff has no suggested response on the issue relating to whether MUA was practiced or taught in chiropractic school in 1922. Medical professions have evolved since their regulatory programs were enacted. The issue related to the chiropractic scope of practice has been addressed in a legal opinion dated December 13, 2007, by the DCA Legal Affairs Division (attached).

Comment 2: Maia James, D.C., President, California Chiropractic Association supports the Modified Proposed Regulatory Language for MUA stating it is necessary, does not increase the scope of practice of chiropractic, and ensures patient safety.

Staff Suggested Response:

Staff accepts your comment and thanks the California Chiropractic Association for their support.

Comment 3: Veronica Ramirez, California Medical Association opposes the Modified Proposed Regulatory Language for MUA stating these regulations lack clarity, violate the standard of Government Code 11349.1, are not in the best interest of patients, and violate Section 7 of the Chiropractic Act. Comments and recommendations are as follows:

- 1.) MUA is not a chiropractic method.
- 2.) MUA was not taught in chiropractic schools in 1922.
- 3.) MUA invades the field of medicine and surgery
- 4.) MUA violates the provision of Section 7 prohibiting chiropractors from the "use of any drug or medicine."

Staff Suggested Response:

Staff disagrees with the comments. This language does not permit doctors of chiropractic to administer anesthesia. Anesthesia may only be administered, following an appropriate examination, by a California licensed physician and surgeon, or other care provider authorized under California law to administer anesthesia, who is trained and competent to administer anesthesia safely. Staff has no suggested response

on the issue relating to whether MUA was practiced or taught in chiropractic school in 1922. Medical professions have evolved since their regulatory programs were enacted.

Attachment E

Board of Chiropractic Examiners Modified Proposed Regulatory Language for Continuing Education Second 15- day comment period

Modified Text: Additions to the originally proposed language are shown in italics for new text and deletions to the originally proposed language are shown by double strikeout.

§ 354. 5 License Renewal and Continuing Education Fees

The following represents fees for license renewals and continuing education:

a. License Fees

1. Annual license renewal: \$150.
2. License restoration: double the annual license renewal fee.
3. Inactive license renewal: same as the annual license renewal fee.

b. Continuing Education Fees.

1. Continuing Education Provider Applicant Fee: \$75
2. Biannual Continuing Education ~~Renewal~~ Provider Renewal Fee: \$50
3. Continuing Education Course: \$50 per course. A course is defined in Section 357 (a).

§355. Annual License Renewals and Restoration

(a) This section shall apply to non-disciplinary license renewal and restoration. Disciplinary license renewal conditions are defined in Article 10 of the Initiative Act.

A license shall expire annually on the last ~~date~~ day of the licensee's birth month.

(1) A "forfeited" license is defined in Article 12 of the Initiative Act as a license that has not been renewed within 60 days of its expiration date.

(2) An "inactive" license is defined in Business and Professions Code 700 as a ~~license~~ licensee who is not actively engaged in the practice of chiropractic.

(3) A "cancelled" license is a license that has been expired for a period of three (3) consecutive years.

To renew a license or inactive license, or restore a license, that is forfeited, ~~inactive~~ or canceled, a licensee shall complete and submit a "Renewal or Restoration Application," (Revision date 08/09) form which is incorporated by reference, and pay the appropriate fee per Section 354.5 (a). ~~Regarding forfeited and inactive licenses~~ To renew a license or inactive license, the renewal and restoration application and fee shall be submitted to the board prior to the expiration date of the license. The board will not process incomplete applications ~~or~~ nor complete applications that do not include the

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correct fee per Section as provided by section 354.5 (a).

In addition to any other requirement for renewal or restoration of a license, a licensee shall disclose whether, since the last renewal of his or her license, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country. However, licensees are not required to disclose traffic infractions that resulted in fines of less than five hundred dollars (\$500) that did not involve alcohol, dangerous drugs, or controlled substances.

(b) In addition to (a), an applicant shall have met one of the following:

(1) Completed the board's continuing education requirements that were in effect at the time for each year the license was expired;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each twelve (12) month period or portion thereof the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the license restoration application.

§355.1. Continued Jurisdiction of a License.

The suspension, expiration, cancellation or forfeiture by operation of law of a license issued by the board, or its suspension, or forfeiture, by order of the board or by order of a court of law, or its surrender without the written consent of the board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

§356. Continuing Education Requirements

(a) For license renewals that expire on or after January 1, 2014 two years from [insert effective date of this regulation] the number of required hours shall be increased to twenty-four (24) hours of board approved continuing education courses. Effective January 1, 2014 one year from [insert effective date of this regulation] a maximum of twelve (12) hours of continuing education hours may be completed through distance learning as defined in Section 357.1, and authorized by the board. - Any continuing education hours accumulated before January 1, 2011 that meet the requirements in effect on the date the hours were accumulated, will be accepted by the board for license renewals. Licensees shall complete a minimum of two (2) hours in subparagraph 13, a minimum of four (4) hours in any one of, or combination of, the courses specified in subparagraph 3 – History Taking and Physical Examination Procedures, subparagraph 5 – Chiropractic Adjustive Technique or Chiropractic Manipulation Techniques, or subparagraph 12 – Proper and Ethical Billing and Coding, and additional continuing education courses in any of the following subject matters:

1. Philosophy of chiropractic, including the historical development of chiropractic as an art and science and health care approach; the vertebral subluxation complex and somato-visceral reflexes including their relationships between disease and health; and other chiropractic theory and philosophy.
2. Instruction in, basic sciences of anatomy, histology, neurology, physiology, nutrition, pathology,

biochemistry and toxicology.

2. Instruction in various basic to comprehensive history taking and physical examination procedures, including but not limited to orthopedic, neurological and general diagnosis related to evaluation of the neuro-musculoskeletal systems, ~~but may also include~~ and includes general diagnosis and differential diagnosis of various conditions that affect the human body.

4. ~~The study of various and advanced diagnostic imaging procedures and technologies; clinical chemistry Diagnostic testing procedures, interpretation and technologies; specialized functional capacity testing (computerized and non-computerized); to assist the licensee in general diagnosis and that aid in differential diagnosis of disorders or diseases, and to assist with proper referral, treatment and case management or resolution~~ all conditions that affect the human body.

5. Chiropractic adjustive technique or chiropractic manipulation techniques.

6. Pain management theory, including, but not limited to, current trends in treatment and instruction in the physiology and anatomy of acute, sub-acute and chronic pain.

7. ~~Physiotherapy techniques, including the theory and application of physiotherapies, including but not limited to: ultrasound including extracorporeal shock wave therapy; therapeutic laser and other light agents; electric stimulation modalities; thermal agents; rehabilitation exercise, functional restoration, instruction in home exercise programs, active care, and passive care.~~

8. Instruction in Manipulation Under Anesthesia including the safe handling of patients under anesthesia.

9. Instruction in ~~various~~ the aspects of special population care, including, but not limited to, geriatric, and pediatric, and athletic care as related to the practice of chiropractic.

10. ~~Courses that are approved by the California Department of Industrial Relations, Division of Workers Compensation.~~

11. ~~Courses that are approved by any Healing Arts or Bureau within Division 2 of the Business and Professions Code or approved by any organization authorized to approve continuing education by any Healing Arts or Bureau in Division 2 of the Business and Professions Code. The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request.~~

12. Instruction in proper and ethical billing and coding, including accurate and effective record keeping and documentation of evaluation, treatment and progress of a patient. This is not to include practice building or patient recruitment/retention or business techniques or principles that teach concepts to increase patient visits or patient fees per case.

13.

14. Ethics and law: including but not limited to: truth in advertising; professional boundaries; mandatory reporting requirements for child abuse/neglect, elder abuse/neglect; spousal or cohabitant

abuse/neglect; sexual boundaries between patient and doctors; review of the specific laws, rules and regulations related to the practice of chiropractic in the State of California.

44.

12. Adverse event avoidance, including reduction of potential malpractice issues.

45.

13. Pharmacology, including side effects, drug interactions and the pharmacodynamics of various commonly prescribed and over-the-counter drugs; drug reactions and interactions with herbs, vitamins and nutritional supplements; blood and urinalysis testing used in the diagnosis and detection of disease, including use of and interpretation of drug testing strips or kits utilizing urinalysis, saliva, hair and nail clippings.

46. Cardiopulmonary

14. A licensee may earn up to a maximum of two (2) hours of continuing education credit in cardiopulmonary resuscitation, basic life support and use of Automated External Defibrillators: A licensee may earn a maximum of two (2) hours an automated external defibrillator.

47.

15. Board Meeting: A licensee shall may earn a maximum of four (4) hours of continuing education credit per renewal period for attending a full board meeting that includes the hearing of cases related to petitioners seeking the reinstatement of revoked licenses or early termination of probationary license licenses. A petitioner may not earn any continuing education hours for attending a board meeting on the same day in which said petitioner's hearing is conducted. A licensee may earn a maximum of four (4) hours of continuing education credit for the license renewal period under this subsection and their The attendance of a licensee at a board meeting under this subparagraph shall be monitored and confirmed by board staff designated by the Executive Officer.

16. Any of the following as related to the practice of chiropractic:

A) Principles of practice.

B) Wellness (prevention, health maintenance)

C) Rehabilitation.

D) Public health.

(b) The continuing education requirements specified in subdivision (a) may be met by taking continuing education courses that are approved by either of the following:

1) The California Department of Industrial Relations, Division of Workers Compensation.

2) Any Healing Arts Board or Bureau within Division 2 of the Business and Professions Code or approved by any organization authorized to approve continuing education by any Healing Arts Board

or Bureau in Division 2 of the Business and Professions Code. The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request.

§356.5. Continuing Education Provider Approval, Duties, and Responsibilities.

(a) CONTINUING EDUCATION PROVIDER DENIAL AND APPEAL PROCESS: If an application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing with the Executive Officer regarding the reasons stated in the denial notification. The appeal must be filed within 30 days of the date of the denial notification.

The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officer's denial notification, request a hearing before the board to appeal the denial. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.

(b) As used in this section, a provider is an individual, partnership, corporation, professional association, college or any other entity approved by the board to offer board approved continuing education courses to licensees to meet the annual continuing education requirements set forth in section 356 of these regulations.

(a)

(c) To apply to become a new an approved provider, an applicant shall complete and submit a "Continuing Education Provider Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the required fee per as provided in section 354.5 (b) (1). An existing approved Provider shall re-apply every two years from the initial approval date, using the "Continuing Education Provider Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the required fee per section 354.5 (b).

The board will not process incomplete applications or nor applications that do not include the correct application fee.

~~(b) CONTINUING EDUCATION PROVIDER DENIAL AND APPEAL PROCESS: If an application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing regarding the reasons stated in their denial letter, with the Executive Officer. This appeal must be filed within 30 days of the denial date.~~

~~Upon request for informal hearing, the Executive Officer shall schedule the informal hearing within 30 days of receipt of that request. Within 10 days following the informal hearing with the Executive Officer, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may request a~~

~~hearing on the denial before the board if their request for such a hearing before the board is received within 30 days of the denial date. Upon request for such a hearing before the board, the Executive Officer shall schedule the hearing at a future board meeting but not later than 180 days from receipt of that request. Within 10 days following the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.~~

(c)

(d) The approval of the provider shall expire two (2) years after it is issued by the board and may be renewed upon the filing of the required application and fee referenced in this subsection.

(d)

(e) Providers shall:

(1) Identify an individual responsible for overseeing all continuing education activities of the provider.

(2) Establish and maintain procedures for documenting completion of a course, and shall retain attendance records for four (4) years from the date of course completion, and shall provide a course roster to the board, within 30 days, upon written request. Course rosters shall include the names of all licensees, license numbers, and e-mail addresses if available. Failure to submit the roster upon written request within thirty (30) days may result in the withdrawal or denial of previous courser approval and withdrawal of provider status. ~~The board, at its discretion may contact attendees after a continuing education course as part of the board's auditing process to obtain information regarding the quality and content of the course.~~

(3) Maintain course instructor curriculum vitae or resumes for four (4) years, if applicable.

(4) Disclose to prospective participants the names of the individuals or organizations, if any, who have underwritten or subsidized the course. Providers may not advertise, market, or display materials or items for sale inside the room where while the actual instruction is taking place.

(5) Inform the board in writing immediately of any change to the date, time or location of the course.

(6) Provide a certificate of completion to licensees who completed the continuing education course. The certificate shall include the following information:

(a)

(A) Name of provider

(b)

(B) Course approval number

(c)

(C) Date(s) of course

(d)

(D) Licensee name

(e)

(E) Licensee number

(f)

(F) Identify the number of hours the licensees earned in continuing education.

(f) The Executive Officer, after notification, may withdraw approval of any continuing education course for good cause, including violations of any provision of the regulation, falsification of information, or other substantial reason, and shall provide written notification of such action to the provider. The provider may request an informal hearing with the Executive Officer regarding the reasons for withdrawal of approval stated in the Executive Officer's notification. The appeal must be filed within 30 days of the date of the notification. The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the provider. If the Executive Officer upholds his or her decision under this subsection, the provider may, within 30 days of the date of the Executive Officer's notification, request a hearing before the board to appeal the Executive Officer's decision. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the provider. The board's decision shall be the final order in the matter.

§357. Approval of Continuing Education Courses.

(a) (a) Providers must complete and submit a "Continuing Education Course Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the application fee as provided by section 354(b)(3). Providers shall submit and complete one application for each continuing education course being offered.

A "course" is defined as an approved program of coordinated instruction, up to 12 hours in length, in any of the categories as defined in Section 356 and given by an approved Provider. Once approved, a course may be given any number of times for one year following approval, with the single renewal continuing education course fee paid one time annually by the Provider.

(b) DENIAL AND APPEAL PROCESS: If a course application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing regarding the reasons stated in their denial letter notification, with the Executive Officer. This The appeal must be filed within 30 days of the denial date of the denial notification.

Upon request for informal hearing, the The Executive Officer shall schedule the informal hearing within 30 days of receipt of that the appeal request. Within 10 days following the informal hearing with the Executive Officer, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officers denial notification, request a hearing on the denial before the board if their request for such a hearing before the board is received within 30 days of the denial

date to appeal the denial. Upon request for such a hearing before the board, the Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days from following receipt of that the request.

Within 10 days following of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.

(c) Only those courses that meet the following shall be approved:

(1) No more than twelve (12) hours of instruction continuing education credit shall be given during awarded to an individual licensee for coursework completed in a day.

(2) Continuing education credit shall be based on at least fifty (50) minutes of participation in an organized learning experience per every 60 min (1 hour). Class breaks shall be at the discretion of the instructor. Breaks shall not count towards a course hour. Providers shall furnish a sign-in sheet that contains the course date(s), each licensee's name, license number, and designated space for each licensee to sign in at the beginning and conclusion of the course each day. Furthermore, a statement on the form shall state that the licensee is signing their name on that sheet, under penalty of perjury, that they personally attended the stated course, on the listed date(s) and they personally attended the listed hours of course work. Each licensee shall be responsible for signing the "sign-in sheet" at the start and conclusion of each day's coursework, and failure to do so may invalidate credit for that day's coursework.

(d) The board shall not approve the following subjects for continuing education courses: financial management, income generation, practice building, collections, self-motivation, and patient recruitment.

(e) If a provider makes a material change in content of an approved course, he or she shall notify the board as soon as possible of the changes and prior to giving the course. A new application may be required as determined by the Executive Officer.

(f) The Executive Officer, after notification, may withdraw approval of any continuing education course for good cause, including violations of any provision of this regulation, falsification of information or other substantial reason, and shall provide written notification of such action to the provider. The provider may appeal the decision to the Executive Officer within 30 days of such notice by following the steps outlined in detail in section 357(b) request an informal hearing with the Executive Officer regarding the reasons for withdrawal of approval stated in the Executive Officer's notification. The appeal must be filed within 30 days of the date of the notification. The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the provider. If the Executive Officer upholds his or her decision under this subsection, the provider may, within 30 days of the date of the Executive Officer's notification, request a hearing before the board to appeal the Executive Officer's decision. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the provider. The board's decision shall be the final order in the matter

(g) The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge.

357.1 Distance Learning Courses

~~Continuing education providers~~ Providers of continuing education courses offered through distance learning formats, including, but not limited to, computer, Internet, manuals, compact disks, digital video, versatile discs, and audio and video tapes, ~~and research projects~~ shall meet all of the following:

- (a) Disclose course instructors' curriculum vitae or resumes.
- (b) Explain the appropriate level of technology required for a student licensee to successfully participate in the course.
- (c) Make available technical assistance as appropriate to the format.
- (d) Contain security measures to protect the learner's identity, course and related content from unauthorized access.
- (e) Establish deadline for completion.
- ~~(f) Allow for licensee and instructor interaction in a timely manner.~~
- ~~(g) Show formal outcome assessment of course.~~
- ~~(h) Instructional~~
- ~~(f) Review instructional materials are reviewed annually to ensure they meet current professional standards.~~
- ~~(i) Require licensee to sign under penalty of perjury an affidavit of compliance and verify completion of enrolled hours of distance education.~~
- ~~(j)~~
- (g) Distance learning courses are required to be marketed without promotional material or advertisements embedded in the continuing education course delivery system. The continuing education provider shall notify the licensee when he or she is leaving a continuing education site and directed to a promotional or sponsored site. Manufacturers, distributors, or other sellers of chiropractic products or services may not be endorsed or embedded ~~in to~~ into the course material.

§358. Exemptions and Reduction of Requirement

The following licensees are exempt, entirely or in part, from the continuing education requirements of Section 356 of these regulations.

- (1) Inactive licentiates;
- (2) New licentiates in the year of initial licensure;
- (3) Instructors who have taught for ~~two consecutive years~~ one (1) year and currently teach core curriculum courses for more than eight (8) credit hours per week at any Council on Chiropractic

Education accredited college for at least six (6) months during any license renewal period year shall be exempt from license renewal requirements continuing education.

(4) Licensees who teach a board-approved continuing education course may earn one (1) hour of continuing education credit for each hour of lecture up to 24 hours per year.

(5) A licensee who is unable to attend continuing education courses due to a physical disability and provides written certification from a primary health care provider may be allowed to take earn all 24 hours ~~on a distance learning basis~~ of continuing education credits for the period of the license renewal through Board-approved distance learning courses as specified in section 357.1.

(6) Licensees who participate ~~both days~~ as an examiner for the entire part four portion of the NBCE examinations shall receive a maximum of six (6) hours of continuing education credit for each ~~two-day~~ examination period conducted by the NBCE during the license renewal period. Examiners Licensees must provide written certification from the NBCE confirming the ~~examiner's involvement in the exam~~ licensee has met the requirements of this subsection.

(7) Active Board Members. Professional board members who have served one full year on the Board of Chiropractic Examiners shall be exempt from the continuing education requirement in each year of board member service.

~~(8) Licensees who author published articles related to the chiropractic profession may receive a maximum of twelve (12) hours of continuing education credit for each research study published in a peer reviewed, nationally recognized, and scientifically based publication. A licensee may not earn more than a maximum of twelve (12) hours of continuing education hours under this subsection.~~

(9)

~~(8) Licensees on active duty of with a branch of the armed forces of the United States may earn twenty four shall be permitted to take all twenty-four (24) hours of required continuing education requirements through board-approved distant distance learning courses as specified within in section 357.1.~~

§359. Revoked or Suspended Licenses.

Any person making application for reinstatement of a license that has been revoked may be required, as a part of the relief granted, to complete an approved course of continuing education, or to complete such study or training as the board may require. A license that has been suspended is subject to forfeiture, expiration, renewal, and or cancellation.

§360. Continuing Education Audits.

The Board shall conduct random audits to verify compliance with Continuing Education requirements of active licensees. Licensees shall retain documents of completion issued to them at the time of attendance of Board-approved Continuing Education courses for a period of four (4) years from their last renewal and shall forward these documents to the Board upon request. Licensees who fail to retain documents of completion shall obtain duplicate documents, from Board-approved Continuing Education providers, who shall issue duplicates only to licensees whose names appear on the providers' rosters of course attendees. The documents of completion shall be clearly marked "duplicate" and shall contain the licensees' names and license numbers, as well as providers' names, course approval numbers, dates of attendance, and hours earned. Licensees who furnish false or

misleading information to the Board regarding their Continuing Education hours shall be subject to disciplinary action. Providers who present false or inaccurate verification of a licensee's participation shall may lose their provider status for up to ten (10) years, at the discretion of the Executive officer Officer. The provider may appeal the decision following the procedure outlined in section 357 (b). The full board's ruling, as described in section 357 (b), shall be the final order on the matter.

The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge.

The board, at its discretion, may contact attendees after a continuing education course as part of the board's auditing process to obtain information regarding the quality and content of the course.

Board of Chiropractic Examiners

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Comment 1: Eddie J. Braddock, D.C., Diplomate of the American Board of Chiropractic Orthopedists opposes the Modified Proposed Regulatory Language for Chiropractic Specialties stating you can't write a regulation saying you recognize organizations to certify diplomate status in chiropractic specialties without including regulatory language that states the Chiropractic Specialty Education Requirements for the State of CA, the same as is stated in the Chiropractic Initiative Act. Dr. Braddock provided proposed regulatory language and made the following recommendations:

- 1.) A minimum of five years of uninterrupted active clinical practice should be required to matriculate into a post graduate Chiropractic Specialty course.
- 2.) The post graduate curriculum should be standardized by the specialty councils and followed in the post graduate specialties course.
- 3.) A minimum of 300 hours of post-graduate level education should be required and candidates should pass module and final examinations.
- 4.) Classroom, laboratory and/or online distance learning hours should be recorded by attendance records the same as required for the DC degree.
- 5.) Candidates who graduated from a fully accredited post graduate chiropractic school become eligible to take the ACA or ICA Council Diplomate board examinations.
- 6.) Chiropractic Diplomate candidates should pass comprehensive written, oral and practical examinations.

Suggested Response:

The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 2: Maia James, D.C., President, California Chiropractic Association supports the Modified Proposed Regulatory Language for Chiropractic Specialties, however; requests the BCE reconsider an amendment that would allow the International Academy of Chiropractic Neurology (IACN) to also be recognized. Dr. James provided proposed regulatory language and made the following comments and recommendations:

- 1.) The IACN adheres to the same educational standards as ACA and ICA.
- 2.) Any regulation that does not recognize IACN is not fair to injured workers who should be able to choose all doctors that have obtained a minimum level of specialist training.

- 3.) Eliminating IACN would result in doctors who completed years of rigorous training and spent thousands of dollars to be excluded from BCE recognition. Exclusion would result in significant reduction of income for these doctors.
- 4.) Establish a grandfather clause that recognizes doctors of chiropractic who have obtained diplomate status from IACN or rewrite the regulation to establish the minimum standards for specialty boards that are BCE recognized.
- 5.) Minimum requirements should be; sponsorship by a CCE accredited college, minimum of 300 hours of classroom instruction and short-term residency session, mandatory oral and written examinations, and mandatory continuing education requirements.

Suggested Response:

Comments 1, 2, 3, & 5: The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 4: Staff does not have a suggested response to this comment.

Comment 3: Wayne M. Whalen, D.C., opposes the Modified Proposed Regulatory Language for Chiropractic Specialties stating the BCE reconsider eliminating recognition of the International Academy of Chiropractic Neurology (IACN). Dr. Whalen provided proposed regulatory language. Comments and recommendations are as follows:

- 1.) Failure to recognize the IACN would have specific professional and financial ramifications.
- 2.) Prior DWC regulations recognized chiropractic neurologists as a distinct group and included those with IACN certification.
- 3.) Eliminating IACN would discriminate solely based on political affiliation, not academic qualification.
- 4.) Whether or not a specialty board is recognized by ACA or ICA should not be the central issue in this policy. The IACN adheres to the same educational standards as ACA and ICA.
- 5.) Eliminating IACN would result in eliminating doctors who completed essentially the same academic requirements as the ACA or ICA simply because they support a different organization of chiropractic neurologists.
- 6.) Selectively approving only ACA or ICA recognized boards is discriminatory against doctors who have obtained certification with identical or superior requirements.
- 7.) Should the Board choose to not amend the proposed language, it could at least establish a grandfather clause.

Suggested Response:

Comments 1 through 6: The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure

consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 7: Staff does not have a suggested response to this comment.

DRAFT